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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,634	06/11/2001	Wan-Uk Choi	45145/DBP/Y35	5926
23363	7590	07/28/2004	EXAMINER	
CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			CHANEY, CAROL DIANE	
			ART UNIT	PAPER NUMBER
			1745	
DATE MAILED: 07/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

<b>Application No.</b> 09/880,634	<b>Applicant(s)</b> CHOI ET AL.	
<b>Examiner</b> Carol Chaney	<b>Art Unit</b> 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 29 April 2004.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1 and 6-11 is/are pending in the application.
  - 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1 and 6 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a)  All    b)  Some \*    c)  None of:
      - 1.  Certified copies of the priority documents have been received.
      - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 103***

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Takami et al., US Patent 5,753,387 with evidence by Moriguchi et al., US 2001/0051300 A1.

Takami et al. disclose lithium secondary batteries which include carbonaceous anode active materials. The carbon has regions of amorphous carbon and graphitic carbon. (See abstract.) The method of preparing the anode material includes adding a catalyst such as B, Mn or Cr to the reaction mixture. The boron may remain in the carbon material after it is graphitized. (Column 13, line 53-column 14, line 5.) In further embodiments, Al or Si are added to a graphitizable carbon precursor to form to form anode active materials. (See column 13, lines 24-39.) The concentration of Al or Si is taught as being controlled to 0.1 to 10 atomic percent, which falls within applicants' claimed ratios. (See column 16, lines 42-48.) Specific embodiments include 8 atomic percent Si and 8 atomic percent Al in the electrode material. (See column 21, lines 27-28 and column 22 lines 66-67.)

With regards to concentrations of boron in the Takami et al. anode material, Takami et al. state "the carbonaceous material ...according to this invention may contain a trace amount of B, Mn, and Cr." (Column 14, lines 1-5.) The boron, manganese and chromium are used as catalysts for graphitizing carbon. In this context, "a trace amount" of boron used as a catalyst would inherently be between about 0.01 weight percent and not more than about 5 weight percent. This is evidenced by Moriguchi et al., US 2001/0051300 A1, who state that when forming graphite powders

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for lithium battery electrodes a boron content less than 0.01 wt %, the boron content can exhibit no substantial function as a catalyst, and a boron content exceeding 5.0 wt % results in boron precipitated as carbides, and undesirably decreasing the apparent charging/discharging capacity of the electrode. (See Moriguchi et al., paragraph 63.)

Claim 6 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Takami et al., US Patent 5,753,387.

As discussed above Takami et al. disclose applicants' invention essentially as claimed, with the exception that the ratio of intensities of the 110 and 002 X-ray diffraction peaks is not disclosed. However, the x-ray diffraction spectrum of a material is an inherent physical characteristic of a material. Therefore, since applicants' materials and the prior art materials are identical, the x-ray diffraction patterns of the materials will inherently be identical. Applicant's claimed negative active material is anticipated by Takami et al. or in the alternative, would have been obvious to one of ordinary skill in the art based upon either of these prior art.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol Chaney whose telephone number is (571) 272-1284. The examiner can normally be reached on Mon - Fri 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carol Chaney  
Primary Examiner  
Art Unit 1745

20 July 2004